

A218

Office Action Summary

Application No.

09/743,621

Applicant(s)

Ho et al

Examiner

Edward Can

Group Art Unit

1714

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Pri d for ReplyA SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-37 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-37 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Pri rity under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other _____

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DETAILED ACTION

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear whether claim 1 refers to a solution or a dispersion of the ^{nanoparticle} ~~monoparticle~~ and whether the other material is dissolved or not.

The composition claims 24-34 and 37 also fail to particularly point out and distinctly claim the invention. Claim 24 is directed to a solution of nanoparticles. However, in solution the nanoparticles are no longer present as particles because they have been dissolved in the solvent to form the solution. It is inconsistent to recite a solution of particles. Claim 24 is broad enough to encompass a solution of common table sugar or salt dissolved in water. Applicants do not consider a solution of sugar or salt in water to be the invention. In claim 36 and 37 the phrases "substantially as herein described with reference to the accompanying drawings" and the phrase "substantially as herein described" are indefinite.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Cain whose telephone number is 308-0042. The examiner can normally be reached on Monday-Friday from 10:00am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (703) 306-2777. The fax phone number for the organization where this application or proceeding is assigned is 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-0661.

ECain:evh

4/4/03

A handwritten signature in black ink, appearing to read 'Ed', is positioned to the right of the typed name 'ECain:evh' and the date '4/4/03'.



OMB No. 0651-0011

INFORMATION DISCLOSURE CITATION

Atty. Docket No.	08513.7030-00000	Appln. No.	09/743,621
Applicant	Ho et al.		
Filing Date	April 9, 2001	Group:	1714

U.S. PATENT DOCUMENTS

Examiner Initial*	Document Number	Issue Date	Name	Class	Sub Class	Filing Date If Appropriate
Re	5,498,446	3/12/1996	Axelbaum et al.	427	212	5/25/1994

FOREIGN PATENT DOCUMENTS

	Document Number	Publication Date	Country	Class	Sub Class	Translation Yes or No
Re	WO 99/10527	04.03.99	PCT			English Abstract
Re	CA 2,300,885	1998/08/21	Canada			English Abstract

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

Examiner	Re	Date Considered	3/03
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*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Form PTO 1449

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